IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.79 OF 2007

Narendra Kumar Girdharilal & Ors. .. Petitioners.

Versus

Ratilal Kantilal & Co. & Ors. .. Respondents.

Mr.R.S.Tripathi with Mr.P.P.Prabhu for petitioners.

Mr.S.Nagvadaria for respondents.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 13th AUGUST, 2007.

P.C.:

1. In this Arbitration Petition, which is filed under Section 9 of the Arbitration & Conciliation Act, 1996 for the relief, more particularly set out in the prayer clauses. The parties have tendered Consent Terms.

2. The Consent Terms incorporate the understanding and agreement between parties with regard to the business of the firm M/s.Ratilal Kantilal & Co. The respondents admit and confirm the Partnership Deed dated 1st April, 1992 so also the tenancy rights of the deceased Kantilal

Manilal Gandhi in respect of the office premises and the godown, more particularly described in Clause 2 of the Terms. They confirm that these premises were not the assets and properties of the firm but it was allowed to use thereof by the deceased. They also confirm that the heirs and legal representatives of the deceased partner Kantilal Manilal Gandhi are the petitioners 2 to 10 herein so also petitioner No.1 is executor of the Will dated 31st March, 2004 of the deceased Kantilal. Thus, respondents do not dispute that the heirs and legal representatives of the deceased, namely, the petitioners herein are the only heirs, who would be entitled to the benefit that is being conferred by the terms.

3. Each of the respondent agree and confirm that the Partnership Agreement is binding together with the Arbitration Agreement incorporated therein.

4. The respondents would take over the business of the firm as a going concern, save and except, the tenancy rights in the office and the godown premises. They also take over the liability in respect of the loans advanced by the petitioners to the firm and that they will pay all creditors of the firm without in any manner holding the petitioners liable for the same.

5. There are specific undertakings not only on behalf of the respondents but on behalf of the occupiers with regard to the office and godown premises so also there is undertaking to withdraw all summary suits upon compliance thereof. All rent and outstanding / out goings in respect of the premises would be paid by the respondents till 31st August, 2007 and thereafter, the firm would have no right, title and interest in the premises and the petitioners would pay the rent directly to the landlord.

6. The appointment of the Sole Arbitrator is also accepted.

7. The Consent Terms are signed by the Constituted Attorneys. The original Power of Attorneys are also on record. The respondents have also signed after they have been duly explained the terms and conditions and consequences flowing therefrom. Mr.Tripathi states that the parties would complete all the requirements stipulated in the rules inasmuch as the statement that each of these terms are explained to those, who are duly signing the same in the language known to them, would be made in writing within a period of one week from today.

8. Consent Terms are taken on record and marked "X" for identification.

9. The parties to the Consent Terms confirm that the same have been signed after they have fully understood the implications flowing therefrom. There is absolutely no pressure or force of any nature whatsoever and by their free will and consent, they agree to the stipulations in the Terms. In furtherance of these terms, the parties would appear before the Sole Arbitrator and the Sole Arbitrator would be requested to pass a Consent Award in terms thereof.

10. Order in terms of the Consent Terms. Ad-interim relief passed by this Court on 30th March, 2007 and 13th April, 2007 to continue till the Arbitration Proceedings are concluded.

11. Undertakings in Clauses 8, 10 and 12 of the Consent Terms are accepted.

12. Petition is disposed of accordingly with no order as to costs.

(S.C.Dharmadhikari, J.)